



Appeal Decisions

Site visit made on 5 November 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th December 2024

Appeal A: APP/V1505/W/24/3349039

Pavement o/s 119 High Street, Billericay CM12 9AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Nathan Still of In Focus Limited against the decision of Basildon Borough Council.
 - The application reference is 24/00129/FULL.
 - The development proposed is described as 'the installation of a multifunctional communication Hub including defibrillator and advertisement display, as illustrated in the attached documentation.'
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Appeal B: APP/V1505/H/24/3349040

Pavement o/s 119 High Street, Billericay CM12 9AH

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) against a refusal to grant express consent.
 - The appeal is made by Mr Nathan Still of In Focus Limited against the decision of Basildon Borough Council.
 - The application reference is 24/00130/ABAS.
 - The advertisement proposed is described as 'the installation of a multifunctional communication Hub including defibrillator and advertisement display, as illustrated in the attached documentation.'
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As set out above, there are two appeals on this site. One seeks planning permission for a communications hub, which among other things would display an advertisement. The other seeks express consent to display the advertisement. I have considered each appeal on its individual merits; however, the communication hub and advertisement are inextricably linked. In the interests of conciseness and to avoid unnecessary duplication I have dealt with the two appeals together.
4. As Appeal B relates to a refusal to grant express consent for advertisements, I have had regard to Section 3(1) of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (the Regulations). This limits my considerations to those relating to amenity and public safety. Section 3(2) of

the Regulations confirms that factors relevant to amenity include the presence of any feature of historic, architectural, cultural or similar interest. Regard does not need to be had to the development plan. I have taken relevant policies into account as a material consideration. However, they have not, by themselves, been determinative for Appeal B.

5. The Council raises no objections on public safety grounds. Based on the evidence before me and my site visit, I have no reason to reach a contrary conclusion to the Council on this matter.
6. As the appeal site lies within a Conservation Area (CA) and is near to a number of listed buildings, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
7. As a result of the evidence before me and my site visit, I have sought comments from both main parties in respect to the effect of the proposal on the setting of nearby listed buildings and have taken all comments received into consideration during my determination of these appeals.

Main Issue

8. The main issue for both appeals is the effect of the proposal on the character and appearance/amenity of the area.

Reasons

9. The proposal seeks to provide a communication hub, which would contain among other things a defibrillator and digital advertisement. The proposal would be sited on a wide pavement outside a modern parade of shops, with commercial units above. The area has a mix of uses and contains buildings of varying architectural styles and periods, including modern and historic buildings. Street furniture is present in the locality, including traditional style streetlights, litter bins, cycle stands, benches, planters, a telecommunication cabinet and road signs.
10. There are a variety of advertisements in the locality, including traditional non-illuminated advertisements and internally and externally illuminated fascia signs and projecting signs. I also observed advertisements within bus shelters, further along the street.
11. The appeal site lies within the Billericay Conservation Area (CA). The CA includes the commercial core of the town, including the historic High Street, in which the appeal site is located. The significance of the CA insofar as is relevant to these appeals is derived from the diverse range of high quality historic buildings, which include commercial and residential architecture, which signifies the town's evolution as a historic market town. The wide and open nature of the public realm adjacent to these buildings also contributes to the significance of the CA.
12. The appeal site is located close to a number of listed buildings. The closest listed buildings are 'The Red Lion Inn' (List Entry Number: 1338406) and '106, High Street' (List Entry Number: 1338385). The Red Lion Inn is a Grade II listed building. It is two storeys high, has a timber frame and dates back to the 15th century, but was substantially altered in the 18th and 19th centuries. The building has a slate roof and traditional, double-hung sash windows with glazing bars.

13. Based on the evidence before me and my site visit, I find that the listed building's special interest insofar as is relevant to these appeals is derived from its historic and architectural interest, as an illustration of a 15th century inn, which has evolved over the centuries. The building's timber frame and use of traditional materials make important contributions in these regards.
14. On the opposite side of the road to the appeal site is '106, High Street', which is a Grade II listed building. 106, High Street dates back to the 18th century and is two storeys high, with attic accommodation. It is a timber framed building, which contains double-hung sash windows with glazing bars. The building has a tiled roof, with two flat headed dormers. It has 20th century shop fronts. Based on the evidence before me and my site visit, I find that the listed building's special interest insofar as it relates to these appeals is derived from its historic and architectural interest as an depiction of 18th century architecture. The building's timber frame, its simple form and use of traditional materials contribute towards its special interest.
15. The proposal would be sited on a wide pavement to the front of a modern parade of shops/commercial units and would not impede pedestrian movements. However, the proposal by reason of its height and width would appear as a bulky freestanding structure in views along the street scape. I appreciate that there are a variety of advertisements in the locality, including illuminated advertisements. However, the appeal site lies within a CA and is in close proximity to a number of Grade II listed buildings. Furthermore, digitally illuminated advertisements are not a prominent feature in the area. The proposal by reason of its use of modern materials, black colour and illuminated screen would be incongruous with the surrounding historic environment. In combination with the other street furniture in the locality, it would result in visual clutter, which would detract from the amenity of the area.
16. I appreciate that the proposed advertisement would be fitted with a light sensor, so not to appear overly bright and it would power off between midnight and 6am. However, I find that The prominence of the proposal would be further accentuated by the illuminated and digital changing imagery.
17. For the reasons given above, I find that the proposal would be unduly harmful to the character and appearance/amenity of the area. Furthermore, it would fail to preserve the character and appearance of the CA and the setting of nearby listed buildings.
18. Paragraph 205 of the National Planning Policy Framework 2023 (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 206 advises that significance can be harmed or lost through the alteration or destruction of those assets and that any such harm should require clear and convincing justification. Given the nature and extent of the proposal, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.
19. Where a proposal would lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing the asset's optimum viable use.

20. Paragraph 118 of the Framework states that an advanced, high quality and reliable communication infrastructure is essential for economic growth and social well-being. The Framework also seeks to support the expansion of electronic communications networks.
21. In respect to Appeal B, the Regulations require that I exercise my powers with regards to amenity and public safety only. The proposed benefits therefore cannot be taken into consideration in my decision for Appeal B.
22. For Appeal A, I note the public benefits of the proposal, including in terms of communications, its environmental credentials and the provision of a defibrillator and wayfinding information. I acknowledge the support from the NHS and Community Heartbeat Association in respect to the provision of a defibrillator and the key health messages/services that the advertisement could promote. However, there are already a number of defibrillators in the locality, including one a short distance away, on the opposite side of the road. There is also no appropriate mechanism before me to secure the use of the advertisement for community or Council related communications. As a result, I give these public benefits limited weight in my decision.
23. The appellant states that the proposal would consolidate multiple functionalities into a single unit, reducing the number of structures on the pavement, which would address the Council's concerns regarding clutter. It is not clear from the evidence before me which, if any street furniture would be removed in the locality as a result of the proposal. As a result, I give this argument very limited weight in my decision.
24. Overall, there would be limited public benefits from the proposal. Consequently, in attributing considerable importance and weight to the identified harm to the significance of the designated heritage assets, I find that there would be insufficient public benefits arising from the proposal to outweigh this harm.
25. Given the above, I conclude that, on balance, the proposal would fail to preserve the setting of the listed building and the character and appearance of the CA. The proposal would fail to satisfy the requirements of the Act and the historic environment protection policies of the Framework. Insofar as is relevant, the proposal would conflict with Policy BAS BE18 of the Basildon Local Plan Saved Policies, September 2007. This policy among other things requires that regard is had to the scale and design of the proposal and the likely impact on the local environment in terms of amenity.

Other Matters

26. I have had regard to the standard conditions set out in Schedule 2 of the Regulations. I have also considered the conditions proposed by the appellant. Nevertheless, the proposed conditions would not overcome the harm that I have identified to amenity.
27. The lack of objection to the proposal from Environmental Health, the local highway authority and the general public has a neutral effect on my decision and does not outweigh the harm identified above.
28. The appellant has drawn my attention to other communication hubs that have been installed. However, there is limited information before me on the

circumstances of the other schemes and I therefore give them limited weight in my decision.

Conclusion

29. For the reasons given above, and taking into account all matters raised, both Appeals A and B are dismissed.

A James

INSPECTOR